NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

CIS Congressional Information Service Washington, D.C.

101st Congress
1st Session | SENATE | DOCUMENT
101-3

IMPEACHMENT OF JUDGE ALCEE L. HASTINGS

CONSTITUTIONAL AND STATUTORY PROVISIONS; RULES OF PROCEDURE AND PRACTICE IN THE SENATE WHEN SITTING ON IMPEACHMENT TRIALS; ARTICLES OF IMPEACHMENT AGAINST JUDGE ALCEE L. HASTINGS; JUDGE HASTINGS' ANSWER, AND REPLICATION OF THE HOUSE OF REPRESENTATIVES

Printed at the direction of WALTER J. STEWART, Secretary of the Senate, pursuant to S. Res. 39, 101st Cong., 1st Sess. (1989)

FEBRUARY 2, 1989.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
94-533 WASHINGTON : 1989

S920-4

TABLE OF CONTENTS

		Page
1.	Constitutional Provisions on Impeachment	1
2.	Other Constitutional and Statutory Provisions	3
3.	Rules of Procedure and Practice in the Senate When Sitting on Impeachment Trials	11
4.	Articles of Impeachment Against Judge Alcee L. Hastings	23
5.	Answer of Judge Alcee L. Hastings to Articles of Impeachment	33
6.	Replication of House of Representatives to Answer of Judge Alcee L. Hastings	53

I. CONSTITUTIONAL PROVISIONS ON IMPEACHMENT

The provisions of the United States Constitution which apply specifically to impeachment are as follows:

Article I, Section 2, Clause 5

The House of Representatives . . . shall have the sole Power of Impeachment.

Article I, Section 3, Clauses 6 and 7

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Article II, Section 2, Clause 1

The President . . . shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

Article II, Section 4

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Trea-

son, Bribery, or other high Crimes and Misdemeanors.

Article III, Section 2, Clause 3

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; . . .

II. OTHER CONSTITUTIONAL AND STATUTORY PROVISIONS

Other constitutional and statutory provisions that may be considered in the course of this impeachment are as follows:

Article I, Section 5, Clause 2

> Each House may determine the Rules of its Proceedings, . . .

Article III, Section 1

> . . . The Judges, both of the supreme and inferior Courts, shall hold their offices during good Behaviour, . . .

Amendment V

> [N]or shall any person be subject for the same offence to be twice put in jeopardy of life or limb; . . . nor be deprived of life, liberty, or property, without due process of law; . . .

Judicial Councils Reform and Judicial Conduct Disability Act of 1980, Pub. L. No. 96-458, § 3, 94 Stat. 2035, 2036 (codified at 28 U.S.C. § 372(c)(1)-(15) (1982) (subsections (16) and (17) omitted)

(c)(1) Any person alleging that a circuit, district, or bankruptcy judge, or a magistrate, has engaged in conduct prejudicial to the effective and expenditious administration of the business of the courts, or alleging that such a judge or magistrate is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for

the circuit a written complaint containing a brief statement of the facts constituting such conduct.

(2) Upon receipt of a complaint filed under paragraph (1) of this subsection, the clerk shall promptly transmit such complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this subsection only, included in the term "chief judge"). The clerk shall simultaneously transmit a copy of the complaint to the judge or magistrate whose conduct is the subject of the complaint.

(3) After expeditiously reviewing a complaint, the chief judge, by written order stating his reasons, may—

(A) dismiss the complaint, if he finds it to be (i) not in conformity with paragraph (1) of this subsection, (ii) directly related to the merits of a decision or procedural ruling, or (iii) frivolous; or

(B) conclude the proceeding if he finds that appropriate corrective action has been taken.

The chief judge shall transmit copies of his written order to the complainant and to the judge or magistrate whose conduct is the subject of the complaint.

(4) If the chief judge does not enter an order under paragraph (3) of this subsection, such judge shall promptly—

(A) appoint himself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

(B) certify the complaint and any other documents pertaining thereto to each member of such committee; and

(C) provide written notice to the complainant and the judge or magistrate whose conduct is the subject

of the complaint of the action taken under this paragraph.

(5) Each committee appointed under paragraph (4) of this subsection shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council of the circuit.

(6) Upon receipt of a report filed under paragraph (5) of this subsection, the judicial council—

(A) may conduct any additional investigation which it considers to be necessary;

(B) shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit, including, but not limited to, any of the following actions:

(i) directing the chief judge of the district of the magistrate whose conduct is the subject of the complaint to take such action as the judicial council considers appropriate;

(ii) certifying disability of a judge appointed to hold office during good behavior whose conduct is the subject of the complaint, pursuant to the procedures and standards provided under subsection (b) of this section;

(iii) requesting that any such judge appointed to hold office during good behavior voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply;

(iv) ordering that, on a temporary basis for a time certain, no further cases be assigned to any

judge or magistrate whose conduct is the subject of a complaint;

(v) censuring or reprimanding such judge or magistrate by means of private communication;

(vi) censuring or reprimanding such judge or magistrate by means of public announcement; or

(vii) ordering such other action as it considers appropriate under the circumstances, except that (I) in no circumstances may the council order removal from office of any judge appointed to hold office during good behavior, and (II) any removal of a magistrate shall be in accordance with section 631 of this title and any removal of a bankruptcy judge shall be in accordance with section 153 of this title; and

(C) shall immediately provide written notice to the complainant and to such judge or magistrate of the action taken under this paragraph.

(7)(A) In addition to the authority granted under paragraph (6) of this subsection, the judicial council may, in its discretion, refer any complaint under this subsection, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

(B) In any case in which the judicial council determines, on the basis of a complaint and an investigation under this subsection, or on the basis of information otherwise available to the council, that a judge appointed to hold office during good behavior has engaged in conduct—

(i) which might constitute one or more grounds for impeachment under article I of the Constitution; or

(ii) which, in the interest of justice, is not amenable to resolution by the judicial council,

the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.

(C) A judicial council acting under authority of this paragraph shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge or magistrate whose conduct is the subject of the action taken under this paragraph.

(8) Upon referral or certification of any matter under paragraph (7) of this subsection, the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in paragraph (6)(B) of this subsection, as it considers appropriate. If the Judicial Conference concurs in the determination of the council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary.

(9)(A) In conducting any investigation under this subsection, the judicial council, or a special committee appointed under paragraph (4) of this subsection, shall have full subpoena powers as provided in section 332(d) of this title.

(B) In conducting any investigation under this subsection, the Judicial Conference, or a standing committee appointed by the Chief Justice under section 331 of this title, shall have full subpoena powers as provided in that section.

(10) A complainant, judge, or magistrate aggrieved by a final order of the chief judge under paragraph (3) of this subsection may petition the judicial council for review thereof. A complainant, judge, or magistrate aggrieved by an action of the judicial council under paragraph (6) of this subsection may petition the Judicial Conference of the United States for review thereof. The Judicial Conference, or the standing committee established under section 331 of this title, may grant a petition filed by a complainant, judge, or magistrate under this paragraph. Except as expressly provided in this paragraph, all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

(11) Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this subsection, including the processing of petitions for review, as each considers to be appropriate. Such rules shall contain provisions requiring that—

(A) adequate prior notice of any investigation be given in writing to the judge or magistrate whose conduct is the subject of the complaint;

(B) the judge or magistrate whose conduct is the subject of the complaint be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and

(C) the complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

Any rule promulgated under this subsection shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference.

(12) No judge or magistrate whose conduct is the subject of an investigation under this subsection shall serve upon a special committee appointed under paragraph (4) of this subsection, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331 of this title, until all related proceedings under this subsection have been finally terminated.

(13) No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this subsection.

(14) All papers, documents, and records of proceedings related to investigations conducted under this subsection shall be confidential and shall not be disclosed by any person in any proceeding unless—

(A) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or

(B) authorized in writing by the judge or magistrate who is the subject to the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331 of this title.

(15) Each written order to implement any action under paragraph (6)(B) of this subsection, which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331 of this title, shall be made available to the public through

the appropriate clerk's office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order issued under this paragraph shall be accompanied by written reasons therefor.

III. RULES OF PROCEDURE AND PRACTICE IN THE SENATE WHEN SITTING ON IMPEACHMENT TRIALS

I. Whensoever the Senate shall receive notice from the House of Representatives that managers are appointed on their part to conduct an impeachment against any person and are directed to carry articles of impeachment to the Senate, the Secretary of the Senate shall immediately inform the House of Representatives that the Senate is ready to receive the managers for the purpose of exhibiting such articles of impeachment, agreeably to such notice.

II. When the managers of an impeachment shall be introduced at the bar of the Senate and shall signify that they are ready to exhibit articles of impeachment against any person, the Presiding Officer of the Senate shall direct the Sergeant at Arms to make proclamation, who shall, after making proclamation, repeat the following words, viz: "All persons are commanded to keep silence, on pain of imprisonment, while the House of Representatives is exhibiting to the Senate of the United States articles of impeachment against ———— ————"; after which the articles shall be exhibited, and then the Presiding Officer of the Senate shall inform the managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives.

III. Upon such articles being presented to the Senate, the Senate shall, at 1 o'clock after noon of the day (Sunday excepted) following such presentation, or

sooner if ordered by the Senate, proceed to the consideration of such articles and shall continue in session from day to day (Sundays excepted) after the trial shall commence (unless otherwise ordered by the Senate) until final judgment shall be rendered, and so much longer as may, in its judgment, be needful. Before proceeding to the consideration of the articles of impeachment, the Presiding Officer shall administer the oath hereinafter provided to the Members of the Senate then present and to the other Members of the Senate as they shall appear, whose duty it shall be to take the same.

IV. When the President of the United States or the Vice President of the United States, upon whom the powers and duties of the Office of President shall have devolved, shall be impeached, the Chief Justice of the United States shall preside; and in a case requiring the said Chief Justice to preside notice shall be given to him by the Presiding Officer of the Senate of the time and place fixed for the consideration of the articles of impeachment, as aforesaid, with a request to attend; and the said Chief Justice shall be administered the oath by the Presiding Officer of the Senate and shall preside over the Senate during the consideration of said articles and upon the trial of the person impeached therein.

V. The Presiding Officer shall have power to make and issue, by himself or by the Secretary of the Senate, all orders, mandates, writs, and precepts authorized by these rules or by the Senate, and to make and enforce such other regulations and orders in the premises as the Senate may authorize or provide.

VI. The Senate shall have power to compel the attendance of witnesses, to enforce obedience to its orders, mandates, writs, precepts, and judgments, to preserve order, and to punish in a summary way contempts of, and disobedience to, its authority, orders, mandates, writs, precepts, or judgments, and to make all lawful

orders, rules, and regulations which it may deem essential or conducive to the ends of justice. And the Sergeant at Arms, under the direction of the Senate, may employ such aid and assistance as may be necessary to enforce, execute, and carry into effect the lawful orders, mandates, writs, and precepts of the Senate.

VII. The Presiding Officer of the Senate shall direct all necessary preparations in the Senate Chamber, and the Presiding Officer on the trial shall direct all the forms of proceedings while the Senate is sitting for the purpose of trying an impeachment, and all forms during the trial not otherwise specially provided for. And the Presiding Officer on the trial may rule on all questions of evidence including, but not limited to, questions of relevancy, materiality, and redundancy of evidence and incidental questions, which ruling shall stand as the judgment of the Senate, unless some Member of the Senate shall ask that a formal vote be taken thereon, in which case it shall be submitted to the Senate for decision without debate; or he may at his option, in the first instance, submit any such question to a vote of the Members of the Senate. Upon all such questions the vote shall be taken in accordance with the Standing Rules of the Senate.

VIII. Upon the presentation of articles of impeachment and the organization of the Senate as hereinbefore provided, a writ of summons shall issue to the person impeached, reciting said articles, and notifying him to appear before the Senate upon a day and at a place to be fixed by the Senate and named in such writ, and file his answer to said articles of impeachment, and to stand to and abide the orders and judgments of the Senate thereon; which writ shall be served by such officer or person as shall be named in the precept thereof, such number of days prior to the day fixed for such appearances as shall be named in such precept, either by

94-533 - 89 - 2

the delivery of an attested copy thereof to the person impeached, or if that cannot conveniently be done, by leaving such copy at the last known place of abode of such person, or at his usual place of business in some conspicuous place therein; of if such service shall be, in the judgment of the Senate, impracticable, notice to the person impeached to appear shall be given in such other manner, by publication or otherwise, as shall be deemed just; and if the writ aforesaid shall fail of service in the manner aforesaid, the proceedings shall not thereby abate, but further service may be made in such manner as the Senate shall direct. If the person impeached, after service, shall fail to appear, either in person or by attorney, on the day so fixed thereof as aforesaid, or, appearing, shall fail to file his answer to such articles of impeachment, the trial shall proceed, nevertheless, as upon a plea of not guilty. If a plea of guilty shall be entered, judgment may be entered thereon without further proceedings.

IX. At 12:30 o'clock afternoon of the day appointed for the return of the summons against the person impeached, the legislative and executive business of the Senate shall be suspended, and the Secretary of the Senate shall administer an oath to the returning officer in the form following, viz: "I, ——— ———, do solemnly swear that the return made by me upon the process issued on the ——— day of ———, by the Senate of the United States, against ——— ——— is truly made, and that I have performed such service as therein described: So help me God." Which oath shall be entered at large on the records.

X. The person impeached shall then be called to appear and answer the articles of impeachment against him. If he appears, or any person for him, the appearance shall be recorded, stating particularly if by himself, or by agent or attorney, naming the person appear-

ing and the capacity in which he appears. If he does not appear, either personally or by agent or attorney, the same shall be recorded.

XI. That in the trial of any impeachment the Presiding Officer of the Senate, if the Senate so orders, shall appoint a committee of Senators to receive evidence and take testimony at such times and places as the committee may determine, and for such purpose the committee so appointed and the chairman thereof, to be elected by the committee, shall (unless otherwise ordered by the Senate) exercise all the powers and functions conferred upon the Senate and the Presiding Officer of the Senate, respectively, under the rules of procedure and practice in the Senate when sitting on impeachment trials.

Unless otherwise ordered by the Senate, the rules of procedure and practice in the Senate when sitting on impeachment trials shall govern the procedure and practice of the committee so appointed. The committee so appointed shall report to the Senate in writing a certified copy of the transcript of the proceedings and testimony had and given before such committee, and such report shall be received by the Senate and the evidence so received and the testimony so taken shall be considered to all intents and purposes, subject to the right of the Senate to determine competency, relevancy, and materiality, as having been received and taken before the Senate, but nothing herein shall prevent the Senate from sending for any witness and hearing his testimony in open Senate, or by order of the Senate having the entire trial in open Senate.

XII. At 12:30 o'clock afternoon, or at such other hour as the Senate may order, of the day appointed for the trail of an impeachment, the legislative and executive business of the Senate shall be suspended, and the Secretary shall give notice to the House of Representatives

that the Senate is ready to proceed upon the impeachment of ——— ———, in the Senate Chamber.

XIII. The hour of the day at which the Senate shall sit upon the trial of an impeachment shall be (unless otherwise ordered) 12 o'clock m.; and when the hour shall arrive, the Presiding Officer upon such trial shall cause proclamation to be made, and the business of the trail shall proceed. The adjournment of the Senate sitting in said trial shall not operate as an adjournment of the Senate; but on such adjournment the Senate shall resume the consideration of its legislative and executive business.

XIV. The Secretary of the Senate shall record the proceedings in cases of impeachment as in the case of legislative proceedings, and the same shall be reported in the same manner as the legislative proceedings of the Senate.

XV. Counsel for the parties shall be admitted to appear and be heard upon an impeachment.

XVI. All motions, objections, requests, or applications whether relating to the procedure of the Senate or relating immediately to the trial (including questions with respect to admission of evidence or other questions arising during the trial) made by the parties or their counsel shall be addressed to the Presiding Officer only, and if he, or any Senator, shall require it, they shall be committed to writing, and read at the Secretary's table.

XVII. Witnesses shall be examined by one person on behalf of the party producing them, and then cross-examined by one person on the other side.

XVIII. If a Senator is called as a witness, he shall be sworn, and give his testimony standing in his place.

XIX. If a Senator wishes a question to be put to a witness, or to a manager, or to counsel of the person impeached, or to offer a motion or order (except a motion to adjourn), it shall be reduced to writing, and put by

the Presiding Officer. The parties or their counsel may interpose objections to witnesses answering questions propounded at the request of any Senator and the merits of any such objection may be argued by the parties or their counsel. Ruling on any such objection shall be made as provided in Rule VII. It shall not be in order for any Senator to engage in colloquy.

XX. At all times while the Senate is sitting upon the trial of an impeachment the doors of the Senate shall be kept open, unless the Senate shall direct the doors to be closed while deliberating upon its decisions. A motion to close the doors may be acted upon without objection, or, if objection is heard, the motion shall be voted on without debate by the yeas and nays, which shall be entered on the record.

XXI. All preliminary or interlocutory questions, and all motions, shall be argued for not exceeding one hour (unless the Senate otherwise orders) on each side.

XXII. The case, on each side, shall be opened by one person. The final argument on the merits may be made by two persons on each side (unless otherwise ordered by the Senate upon application for that purpose), and the argument shall be opened and closed on the part of the House of Representatives.

XXIII. An article of impeachment shall not be divisible for the purpose of voting thereon at any time during the trial. Once voting has commenced on an article of impeachment, voting shall be continued until voting has been completed on all articles of impeachment unless the Senate adjourns for a period not to exceed one day or adjourns sine die. On the final question whether the impeachment is sustained, the yeas and nays shall be taken on each article of impeachment separately; and if the impeachment shall not, upon any of the articles presented, be sustained by the votes of two-thirds of the Members present, a judgment of acquittal shall be en-

tered; but if the person impeached shall be convicted upon any such article by the votes of two-thirds of the Members present, the Senate may proceed to the consideration of such other matters as may be determined to be appropriate prior to pronouncing judgment. Upon pronouncing judgment, a certified copy of such judgment shall be deposited in the office of the Secretary of State. A motion to reconsider the vote by which any article of impeachment is sustained or rejected shall not be in order.

Form of putting the question on each article of impeachment

The Presiding Officer shall first state the question; thereafter each Senator, as his name is called, shall rise in his place and answer: guilty or not guilty.

XXIV. All the orders and decisions may be acted upon without objection, or, if objection is heard, the orders and decisions shall be voted on without debate by yeas and nays, which shall be entered on the record, subject, however, to the operation of Rule VII, except when the doors shall be closed for deliberation, and in that case no Member shall speak more than once on one question, and for not more than ten minutes on an interlocutory question, and for not more than fifteen minutes on the final question, unless by consent of the Senate, to be had without debate; but a motion to adjourn may be decided without the yeas and nays, unless they be demanded by one-fifth of the Members present. The fifteen minutes herein allowed shall be for the whole deliberation on the final question, and not on the final question on each article of impeachment.

XXV. Witnesses shall be sworn in the following form, viz: "You, ——— ———, do swear (or affirm, as the case may be) that the evidence you shall give in the case now pending between the United States and ———

———, shall be the truth, the whole truth, and nothing but the truth: So help you God." Which oath shall be administered by the Secretary, or any other duly authorized person.

Form of a subpena to be issued on the application of the managers of the impeachment, or of the party impeached, or of his counsel

To ——— ———, greeting:

You and each of you are hereby commanded to appear before the Senate of the United States, on the —— day of ——, at the Senate Chamber in the city of Washington, then and there to testify your knowledge in the cause which is before the Senate in which the House of Representatives have impeached ——— ———.

Fail not.

Witness ——— ———, and Presiding Officer of the Senate, at the city of Washington, this —— day of ——, in the year of our Lord ——, and of the Independence of the United States the ——.

———— ————,

Presiding Officer of the Senate.

Form of direction for the service of said subpena

The Senate of the United States to ——— ———, greeting:

You are hereby commanded to serve and return the within subpena according to law.

Dated at Washington, this ——— day of ———, in the year of our Lord ———, and of the Independence of the United States the ——.

———— ————,

Secretary of the Senate.

Form of oath to be administered to the Members of the Senate and the Presiding Officer sitting in the trial of impeachments

"I solemnly swear (or affirm, as the case may be) that in all things appertaining to the trial of the impeachment of ——— ———, now pending, I will do impartial justice according to the Constitution and laws: So help me God."

Form of summons to be issued and served upon the person impeached

THE UNITED STATES OF AMERICA, SS:

The Senate of the United States to ——— ———, greeting:

Whereas the House of Representatives of the United States of America did, on the —— day of ——, exhibit to the Senate articles of impeachment against you, the said ——— ———, in the words following:

[Here insert the articles]

And demand that you, the said ——— ———, should be put to answer the accusations as set forth in said articles, and that such proceedings, examinations, trials, and judgments might be thereupon had as are agreeable to law and justice.

You, the said ——— ———, are therefore hereby summoned to be and appear before the Senate of the United States of America at their Chamber in the city of Washington, on the —— day of ——, at —— o'clock ——, then and there to answer to the said articles of impeachment, and then and there to abide by, obey, and perform such orders, directions, and judgments as the Senate of the United States shall make in the premises according to the Constitution and laws of the United States.

Hereof you are not to fail.

Witness ——— ———, and Presiding Officer of the said Senate, at the city of Washington, this —— day of ——, in the year of our Lord ——, and of the Independence of the United States the ———.

———— ————,

Presiding Officer of the Senate.

Form of precept to be indorsed on said writ of summons

THE UNITED STATES OF AMERICA, SS:

The Senate of the United States to ———— ————, greeting:

You are hereby commanded to deliver to and leave with ———— ————, if conveniently to be found, or if not, to leave at his usual place of abode, or at his usual place of business in some conspicuous place, a true and attested copy of the within writ of summons, together with a like copy of this precept; and in whichsoever way you perform the service, let it be done at least —— days before the appearance day mentioned in the said writ of summons.

Fail not, and make return of this writ of summons and precept, with your proceedings thereon indorsed, on or before the appearance day mentioned in the said writ of summons.

Witness ———— ————, and Presiding Officer of the Senate, at the city of Washington, this —— day of —— in the year of our Lord ——, and of the Independence of the United States the ——.

———— ————,

Presiding Officer of the Senate.

All process shall be served by the Sergeant at Arms of the Senate, unless otherwise ordered by the Senate.

XXVI. If the Senate shall at any time fail to sit for the consideration of articles of impeachment on the day or hour fixed therefor, the Senate may, by an order to be adopted without debate, fix a day and hour for resuming such consideration.

IV. ARTICLES OF IMPEACHMENT AGAINST JUDGE ALCEE L. HASTINGS

[H. Res. 499, 100th Cong. 2d Sess.]

[Exhibited to Senate on August 9, 1989]

RESOLUTION

Impeaching Alcee L. Hastings, Judge of the United States District Court for the Southern District of Florida, of High Crimes and Misdemeanors

Resolved, That Alcee L. Hastings, a judge of the United States District Court for the Southern District of Florida, be impeached for high crimes and misdemeanors and that the following articles of impeachment be exhibited to the Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and all of the people of the United States of America, against Alcee L. Hastings, a judge of the United States District Court for the Southern District of Florida, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

From some time in the first half of 1981 and continuing through October 9, 1981, Judge Hastings and William Borders, then a Washington, D.C. attorney, engaged in a corrupt conspiracy to obtain $150,000 from defendants in *United States v. Romano,* a case tried before Judge Hastings, in return for the imposition of

sentences which would not require incarceration of the defendants.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE II

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings and William Borders, of Washington, D.C., never made any agreement to solicit a bribe from defendants in *United States v. Romano,* a case tried before Judge Hastings.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE III

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings never agreed with William Borders, of Washington, D.C., to modify the sentences of defendants in *United States v. Romano,* a case tried before Judge Hastings, from a term in the Federal penitentiary to probation in return for a bribe from those defendants.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE IV

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings never agreed with William Borders, of Washington, D.C., in connection with a payment on a bribe, to enter an order returning a substantial amount of property to the defendants in *United States v. Romano,* a case tried before Judge Hastings. Judge Hastings had previously ordered that property forfeited.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE V

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings' appearance at the Fontainebleau Hotel in Miami Beach, Florida, on September 16, 1981, was not part of a plan to demonstrate his participation in a bribery scheme with William Borders of Washington, D.C., concerning *United States v. Romano,* a case tried

before Judge Hastings, and that Judge Hastings expected to meet Mr. Borders at that place and on that occasion.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE VI

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings did not expect William Borders, of Washington, D.C. to appear at Judge Hastings' room in the Sheration Hotel in Washington, D.C., on September 12, 1981.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting, removal from office.

ARTICLE VII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath, make a false statement which was intended to mislead the trier of fact.

The false statement concerned Judge Hastings' motive for instructing a law clerk, Jeffrey Miller, to prepare an order on October 5, 1981, in *United States v. Romano,* a case tried before Judge Hastings, returning a substantial portion of property previously ordered for-

feited by Judge Hastings. Judge Hastings stated in substance that he so instructed Mr. Miller primarily because Judge Hastings was concerned that the order would not be completed before Mr. Miller's scheduled departure, when in fact the instruction on October 5, 1981, to prepare such order was in furtherance of a bribery scheme concerning that case.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE VIII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to his oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that Judge Hastings' October 5, 1981, telephone conversation with William Borders, of Washington, D.C., was in fact about writing letters to solicit assistance for Hemphill Pride of Columbia, South Carolina, when in fact it was a coded conversation in furtherance of a conspiracy with Mr. Borders to solicit a bribe from defendants in *United States v. Romano,* a case tried before Judge Hastings.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE IX

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and

contrary to his oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that three documents that purported to be drafts of letters to assist Hemphill Pride, of Columbia, South Carolina, had been written by Judge Hastings on October 5, 1981, and were the letters referred to by Judge Hastings in his October 5, 1981, telephone conversation with William Borders, of Washington. D.C.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE X

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that on May 5, 1981, Judge Hastings talked to Hemphill Pride by placing a telephone call to 803-758-8825 in Columbia, South Carolina.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XI

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that on August 2, 1981, Judge Hastings talked to Hemphill Pride by placing a telphone call to 803-782-9387 in Columbia, South Carolina.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that on September 2, 1981, Judge Hastings talked to Hemphill Pride by placing a telphone call to 803-758-8825 in Columbia, South Carolina.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XIII

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that 803-777-7716 was a telephone number at a place where Hemphill Pride could be contacted in July 1981.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XIV

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact.

The false statement was, in substance, that on the afternoon of October 9, 1981, Judge Hastings called his mother and Patricia Williams from his hotel room at the L'Enfant Plaza Hotel in Washington, D.C.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XV

From January 18, 1983, until February 4, 1983, Judge Hastings was a defendant in a criminal case in the United States District Court for the Southern District of Florida. In the course of the trial of that case, Judge Hastings, while under oath to tell the truth, the whole truth, and nothing but the truth, did knowingly and contrary to that oath make a false statement which was intended to mislead the trier of fact concerning his motives for taking a plane on October 9, 1981, from Baltimore-Washington International Airport rather than from Washington National Airport.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XVI

From July 15, 1985, to September 15, 1985, Judge Hastings was the supervising judge of a wiretap instituted under chapter 119 of title 18, United States Code (added by title III of the Omnibus Crime Control and Safe Streets Act of 1968). The wiretap was part of cer-

tain investigations then being conducted by law enforcement agents of the United States.

As supervising judge, Judge Hastings learned highly confidential information obtained through the wiretap. The documents disclosing this information, presented to Judge Hastings as the supervising judge, were Judge Hastings' sole source of the highly confidential information.

On September 6, 1985, Judge Hastings revealed highly confidential information that he learned as the supervising judge of the wiretap, as follows: On the morning of September 6, 1985, Judge Hastings told Stephen Clark, the Mayor of Dade County, Florida, to stay away from Kevin "Waxy" Gordon, who was "hot" and was using the Mayor's name in Hialeah, Florida.

As a result of this improper disclosure, certain investigations then being conducted by law enforcement agents of the United States were thwarted and ultimately terminated.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

ARTICLE XVII

Judge Hastings, who as a Federal judge is required to enforce and obey the Constitution and laws of the United States, to uphold the integrity of the judiciary, to avoid impropriety and the appearance of impropriety, and to perform the duties of his office impartially, did, through—

(1) a corrupt relationship with William Borders of Washington, D.C.;

(2) repeated false testimony under oath at Judge Hastings' criminal trial;

(3) fabrication of false documents which were submitted as evidence at his criminal trial; and

(4) improper disclosure of confidential information acquired by him as supervisory judge of a wiretap; undermine confidence in the integrity and impartiality of the judiciary and betray the trust of the people of the United States, thereby bringing disrepute on the Federal courts and the administration of justice by the Federal courts.

Wherefore, Judge Alcee L. Hastings is guilty of an impeachable offense warranting removal from office.

JIM WRIGHT,
Speaker of the House of Representatives.
Attest: DONNALD K. ANDERSON,
Clerk.

V. ANSWER OF JUDGE ALCEE L. HASTINGS TO ARTICLES OF IMPEACHMENT

In the Senate of the United States

Sitting for the Trial of an Impeachment

THE HOUSE OF REPRESENTATIVES, OF THE UNITED STATES, PLAINTIFF,

v.

THE HONORABLE ALCEE L. HASTINGS, A JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, RESPONDENT.

ANSWER TO ARTICLES OF IMPEACHMENT

The Honorable Alcee L. Hastings, a judge of the United States District Court for the Southern District of Florida, as commanded by the summons of the Senate of the United States, answers the accusations made by the House of Representatives of the United States in the articles of impeachment it has exhibited to the Senate as follows:

ARTICLE I

ANSWER TO ARTICLE I

Judge Hastings denies that he engaged in the corrupt conspiracy alleged in this article and states that at no time prior to October 9, 1981, did he know that William

Borders had sought or was seeking improper payments from the defendants in *United States v. Romano.* Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE I

The accusation made in this article fails to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution of the United States and so far departs from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusation is so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. This article should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either an amended article or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusation made in this article sufficient to enable Judge Hastings to prepare his defense and the Senate fairly to judge the accusation made and intended.

SECOND AFFIRMATIVE DEFENSE TO ARTICLE I

Prosecution by the House and trial by the Senate on the accusation made in this article, is and should be precluded by the 1983 trial and verdict of the jury in *United States v. Hastings,* a case in which Judge Hastings was tried and acquitted on an accusation of the crime alleged in this article, and by the lapse of seven years since the information necessary to investigate the accusation made in this article was or should have been known to the House and more than five years since the

substance of that accusation was fully tried and the evidence recorded in public records that were readily available to the House.

THIRD AFFIRMATIVE DEFENSE TO ARTICLE I

The conduct of the investigations against Judge Hastings over the past seven years into the accusation made in this article has so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that the article be dismissed by the Senate without trial.

ARTICLES II THROUGH IV

ANSWER TO ARTICLE II

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that he never made any agreement with William Borders to solicit a bribe from the defendants in *United States v. Romano,* a case that had been tried before him. Judge Hastings denies that the substance of this statement was false or intended to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

ANSWER TO ARTICLE III

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that he had never agreed with Wil-

liam Borders to modify the sentences of defendants in *United States v. Romano,* a case that had been tried before him, from a term of imprisonment to probation in return for a bribe from those defendants. Judge Hastings denies that the substance of this statement was false or intended to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

ANSWER TO ARTICLE IV

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that he never agreed with William Borders, in connection with a bribe, to enter an order returning a substantial amount of property to the defendants in *United States v. Romano,* a case tried before him in which he had previously ordered that property forfeit. Judge Hastings denies that the substance of this statement was false or intended to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE II THROUGH IV

The accusations made in these articles fail to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far depart from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge

Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusations are so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. These articles should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either amended articles or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusations made in these articles sufficient to enable Judge Hastings to prepare his defense and the Senate to judge fairly the accusations made and intended.

SECOND AFFIRMATIVE DEFENSE TO ARTICLES II THROUGH IV

Prosecution by the House and trial by the Senate on the accusations made in these articles is and should be precluded by the 1983 trial and verdict of the jury in *United States v. Hastings,* a case in which Judge Hastings was tried and acquitted on accusations of a crime, the verdict on which necessarily rejected the accusations made in these articles, and by the lapse of more than five years since the information necessary to investigate and prosecute the accusations made in these articles was or should have been known and available to the House and since the trial at which those accusations were expressly argued to and necessarily rejected by the jury and at which the evidence that was presented was more than sufficient to enable the House to determine then whether further inquiry was merited.

THIRD AFFIRMATIVE DEFENSE TO ARTICLES II THROUGH IV

The conduct of the investigations against Judge Hastings over the past five years into the accusations made in these articles has so far departed from the essential requirements of fairness and so directly undermined the

conditions necessary to maintain the necessary independence of federal judges as to require that these articles be dismissed by the Senate without trial.

ARTICLES V THROUGH IX

ANSWER TO ARTICLE V

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that his appearance at the Fontainebleau Hotel on September 16, 1981, was an innocent act and was not a part of a plan to demonstrate his participation in a bribery scheme with William Borders concerning *United States v. Romano,* a case tried before him. Judge Hastings admits that he testified that William Borders had told Judge Hastings that William Borders would be at the Fontainebleau on September 16, 1981, and had invited the judge to dine with him. Judge Hastings denies that the substance of his statements concerning the event described in this article was false or intended to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

ANSWER TO ARTICLE VI

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that he did not expect William Borders to appear at Judge Hastings's room in the Sheraton Hotel on September 12, 1981. Judge Hastings denies that the substance of his statement was false or intend-

ed to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

ANSWER TO ARTICLE VII

Judge Hastings admits that he was the defendant in the criminal trial described in this article and that, in the course of that trial, he took the stand and testified under oath. Judge Hastings denies that his instructions to Mr. Miller on October 5, 1981 or his motives in giving those instructions were related to the furtherance of a bribery scheme concerning the *Romano* case. Judge Hastings denies that the substance of the statements on this topic were false or intended to mislead the triers of fact and states that they were true and were made to enable the jury to reach a true verdict. The remaining allegations set forth in this article are so vague and ambiguous as to preclude further response. In any event, Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

ANSWER TO ARTICLE VIII

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that his October 5, 1981, telephone conversation with William Borders was in fact about writing letters to solicit assistance for Hemphill Pride of Columbia, South Carolina. Judge Hastings denies that his conversation concerned or was in furtherance of a conspiracy with William Borders to solicit a bribe

from defendants in *United States v. Romano,* a case tried before Judge Hastings. Judge Hastings denies that the substance of his statement was false or intended to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

ANSWER TO ARTICLE IX

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that three documents, introduced into evidence at that trial, were drafts of letters he had written on October 5, 1981, and were the letters he had referred to in his October 5, 1981, telephone conversation with William Borders. Judge Hastings denies that the substance of his statement was false or intended to mislead the triers of fact and states that it was true and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

FIRST AFFIRMATIVE DEFENSE TO ARTICLES V THROUGH IX

The accusations made in these articles fail to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far depart from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusations

are so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. These articles should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either amended articles or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusations made in these articles sufficient to enable Judge Hastings to prepare his defense and the Senate to judge fairly the accusations made and intended.

SECOND AFFIRMATIVE DEFENSE TO ARTICLES V THROUGH IX

Prosecution by the House and trial by the Senate on the accusations made in these articles is and should be precluded by the 1983 trial and verdict of the jury in *United States v. Hastings,* a case in which Judge Hastings was tried and acquitted on accusations of a crime, the verdict on which necessarily rejected the accusations made in these articles, and by the lapse of more than five years since the information necessary to investigate and prosecute the accusations made in these articles was or should have been known and available to the House and since the trial at which those accusations were expressly argued to and necessarily rejected by the jury and at which the evidence that was presented was more than sufficient to enable the House to determine then whether further inquiry was merited.

THIRD AFFIRMATIVE DEFENSE TO ARTICLES V THROUGH IX

The conduct of the investigations against Judge Hastings over the past five years into the accusations made in these articles has so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary inde-

pendence of federal judges as to require that the articles be dismissed by the Senate without trial.

ARTICLES X THROUGH XIII

ANSWER TO ARTICLES X THROUGH XIII

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. Judge Hastings admits that, in the course of his testimony at trial, he testified, in substance, that:

a. On May 5, 1981, he had talked with Hemphill Pride by placing a telephone call to 803–758–8825 in Columbia, South Carolina (article X);

b. On August 2, 1981, Judge Hastings talked to Hemphill Pride by placing a call to 803–782–9387 in Columbia, South Carolina (article XI);

c. On September 2, 1981, Judge Hastings talked to Hemphill Pride by placing a telephone call to 803–758–8825 in Columbia, South Carolina (article XII); and

d. The telephone number 803–777–7716 was the number of a telephone at a place where Hemphill Pride could be contacted in July 1981 (article XIII).

Judge Hastings admits that the statements that the specific telephone numbers identified in these articles were the numbers of telephones on which he talked with Hemphill Pride or that were at locations which Hemphill Pride could be reached were false. He denies, however, that he had knowledge that any of the statements was false at the time he made it and states that he believed each of them to be true at the time he made it. He also denies that he intended any of these statements to mislead the triers of fact and states that they were intended, at the time they were made, to enable the jury to reach a true verdict. Judge Hastings denies any

allegations that these articles might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

FIRST AFFIRMATIVE DEFENSE TO ARTICLES X THROUGH XIII

The accusations made in these articles fail to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far depart from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusations are so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. These articles should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either amended articles or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusations made in these articles sufficient to enable Judge Hastings to prepare his defense and the Senate to judge fairly the accusation made and intended.

SECOND AFFIRMATIVE DEFENSE TO ARTICLES X THROUGH XIII

Prosecution by the House and trial by the Senate on the accusations made in these articles is and should be precluded by the 1983 trial and verdict of the jury in *United States v. Hastings,* a case in which Judge Hastings was tried and acquitted and in which the prosecutors had a full and fair opportunity to develop the accusations made in these articles and argue to the triers of fact their relevance to the claim that Judge Hastings was guilty of the crime for which he was tried. The

House should not be permitted to collaterally attack the verdict of the jury or to collaterally impeach Judge Hastings's testimony by now asserting claims that the prosecutors failed to present at the 1983 trial, whether for tactical reasons or through inadvertence or neglect. Prosecution by the House and trial by the Senate on the accusations made in these articles is and should be further precluded by the lapse of more than five years since the information necessary to investigate and prosecute the accusations made in these articles was or should have been known and available to the House and since the trial at which the evidence that was presented was more than sufficient to enable the House to determine then whether further inquiry was merited.

THIRD AFFIRMATIVE DEFENSE TO ARTICLES X THROUGH XIII

The conduct of the investigations against Judge Hastings over the past five years into the accusations made in these articles has so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that the articles be dismissed by the Senate without trial.

ARTICLE XIV

ANSWER TO ARTICLE XIV

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified, in substance, that, on the afternoon of October 9, 1981, Judge Hastings called his mother and Patricia Williams from his hotel room at the L'Enfant Plaza Hotel in Washington, D.C. Judge Hastings denies that the substance of these statements was false or intended to mislead the triers of fact and states that these statements were, at the time they were made, true to the

best of his recollection and belief and were made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE XIV

The accusation made in this article fails to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far departs from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusation is so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. This article should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either an amended article or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusation made in this article sufficient to enable Judge Hastings to prepare his defense and the Senate to judge fairly the accusation made and intended.

SECOND AFFIRMATIVE DEFENSE TO ARTICLE XIV

Prosecution by the House and trial by the Senate on the accusation made in this article is and should be precluded by the 1983 trial and verdict of the jury in *United States v. Hastings,* a case in which Judge Hastings was tried and acquitted on accusations of a crime, the verdict on which necessarily rejected the accusation made in this article, and by the lapse of more than five years since the information necessary to investigate and prosecute the accusation made in this article was or

should have been known and available to the House and since the trial at which that accusation was expressly argued to and necessarily rejected by the jury and at which the evidence that was presented was more than sufficient to enable the House to determine then whether further inquiry was merited.

THIRD AFFIRMATIVE DEFENSE TO ARTICLE XIV

The conduct of the investigations against Judge Hastings over the past five years into the accusation made in this article has so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that the article be dismissed by the Senate without trial.

ARTICLE XV

ANSWER TO ARTICLE XV

Judge Hastings admits that he was the defendant in the criminal case described in this article and that, in the course of the trial of that case, he took the stand and testified under oath. He also admits that he testified concerning his motives for taking a plane on October 9, 1981, from Baltimore-Washington International Airport rather than from Washington National Airport. Judge Hastings denies that the substance of his testimony on this point was false or intended to mislead the triers of fact and states that his testimony on this point, at the time it was given, was true to the best of his recollection and belief and was made to enable the jury to reach a true verdict. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE XV

The accusation made in this article fails to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far departs from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusation is so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. This article should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either an amended article or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusation made in this article sufficient to enable Judge Hastings to prepare his defense and the Senate to judge fairly the accusation made and intended.

SECOND AFFIRMATIVE DEFENSE TO ARTICLE XV

Prosecution by the House and trial by the Senate on the accusation made in this article is and should be precluded by the 1983 trial and verdict of the jury in *United States v. Hastings*, a case in which Judge Hastings was tried and acquitted on accusations of a crime, the verdict on which necessarily rejected the accusation made in this article, and by the lapse of more than five years since the information necessary to investigate and prosecute the accusation made in this article was or should have been known and available to the House and since the trial at which that accusation was expressly argued to and necessarily rejected by the jury and at which the evidence that was presented was more

than sufficient to enable the House to determine then whether further inquiry was merited.

THIRD AFFIRMATIVE DEFENSE TO ARTICLE XV

The conduct of the investigations against Judge Hastings over the past five years into the accusation made in this article has so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that the article be dismissed by the Senate without trial.

ARTICLE XVI

ANSWER TO ARTICLE XVI

Judge Hastings admits the allegations made in the first two paragraphs of this article. Judge Hastings denies the allegations set forth in the third paragraph of this article. Judge Hastings lacks information sufficient to form a fair belief concerning the truth of the allegations set forth in the fourth paragraph of this article and, on that basis, but without conceding their relevance or materiality, he denies them. Judge Hastings denies any allegations that this article might otherwise be construed as having made or implied which are inconsistent with the foregoing response.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE XVI

The accusation made in this article fails to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far departs from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusation is so lacking in specification and particulars as to deny Judge Hastings a meaningful opportunity to respond and to de-

prive him of his right to prepare to defend himself at trial. This article should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either an amended article or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusation made in this article sufficient to enable Judge Hastings to prepare his defense and the Senate to fairly judge the accusation made and intended.

SECOND AFFIRMATIVE DEFENSE TO ARTICLE XVI

The conduct of the investigations against Judge Hastings over the past three years into the accusation made in this article has so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that the article be dismissed by the Senate without trial.

ARTICLE XVII

ANSWER TO ARTICLE XVII

Judge Hastings admits that he is a federal judge within the meaning of Article III, Section 1, of the Constitution. Judge Hastings admits that, by virtue of his oath and his office, he is required to uphold and obey the Constitution and laws of the United States. Judge Hastings states that the remaining allegations set forth in this article are defective in two ways—they fail to state the House's accusations with sufficient particularily to enable him to respond and they fail to state a separate offense constituting a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution. Without waiving his rights to challenge this article on the basis of the defects specified or otherwise, Judge Hastings denies the allegations of fact and the conclusions of law set forth in this article to the extent

that they are inconsistent with the facts admitted in the first two sentences of his answer to this article.

FIRST AFFIRMATIVE DEFENSE TO ARTICLE XVII

The accusation made in this article fails to properly allege a high crime or misdemeanor within the meaning of Article II, Section 4 of the Constitution and so far departs from the standards of fair pleading, as established in prior impeachments and in contemporary criminal practice, as to render it impossible for Judge Hastings to frame an adequate response or to prepare to defend himself at trial. Specifically, the accusation is so lacking in specification and practiculars as to deny Judge Hastings a meaningful opportunity to respond and to deprive him of his right to prepare to defend himself at trial. This article should be dismissed or, in the alternative and at a minimum, the Senate should require the House to file and provide either an amended article or a bill of particulars providing detail, if it can, of the allegations encompassed within the accusation made in this article sufficient to enable Judge Hastings to prepare his defense and the Senate to judge fairly the accusation made and intended.

SECOND AFFIRMATIVE DEFENSE TO ARTICLE XVII

The inclusion of this article represents an improper attempt by the House to undermine the integrity and function of the Senate in the conduct and adjudication of trials of impeachments in two ways. The article asks the Senate to ignore the standard mandated by the Constitution, that removal of an article III judge shall only take place upon conviction for "Treason, Bribery, or other high Crimes and Misdemeanors," and to substitute therefore a nebulous political standard that would permit impeachment and removal upon a finding that a judge had failed "to avoid impropriety and the appearance of impropriety" and had acted "to undermine con-

fidence in the integrity and impartiality of the judiciary" and thereby to substitute a form of political joint address that the framers rejected as inconsistent with maintaining "the necessary independence of a judicial character." Moreover, House seeks by this article to establish again its right to combine multiple accusations in a single article in a manner calculated to induce cumulative voting by Senate in order to obtain a single conviction in impeachments where the House fails to offer evidence sufficient to satisfy the Senate that the accused was guilty of any of the specific crimes alleged. The accusation made in this article so far departs from the standards mandated by the Constitution as to require that it be dismissed by the Senate without trial.

THIRD AFFIRMATIVE DEFENSE TO ARTICLE XVII

The inclusion of this article provides further confirmation that the conduct of the investigations against Judge Hastings over the past seven years into the accusations subsumed and combined in this article and separately stated in the prior article have so far departed from the essential requirements of fairness and so directly undermined the conditions necessary to maintain the necessary independence of federal judges as to require that the article be dismissed by the Senate without trial.

Respectfully submitted on September 8, 1988,

The Honorable Alcee L. Hastings, a Judge of the United States District Court for the Southern District of Florida, by and through his counsel

TERENCE J. ANDERSON,
c/o The University of Miami School of Law,
P.O. Box 248087,
Coral Gables, FL 33124,
JOHN W. KARR,
Karr, Lyons & McLain,
1511 K Street, N.W., Washington, D.C. 20005.
Counsel to United States District Judge Alcee L. Hastings.

VI. REPLICATION OF HOUSE OF REPRESENTATIVES TO ANSWER OF JUDGE ALCEE L. HASTINGS

In the Senate of the United States

Sitting as a Court of Impeachment

In re IMPEACHMENT OF JUDGE ALCEE L. HASTINGS

REPLICATION OF THE HOUSE OF REPRESENTATIVES TO THE ANSWER OF ALCEE L. HASTINGS TO THE ARTICLES OF IMPEACHMENT

The House of Representatives, through its Managers and counsel, replies to the Answer to Articles of Impeachment as follows:

ARTICLE I

The House of Representatives denies each and every statement in the Answer to Article I that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article I sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article I and is insufficient as a matter of law. Article I sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article I and is insufficient as a matter of law.

ARTICLE II

The House of Representatives denies each and every statement in the Answer to Article II that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article II sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states

that the asserted defense is not relevant to the allegations of Article II and is insufficient as a matter of law. Article II sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article II and is insufficient as a matter of law.

ARTICLE III

The House of Representatives denies each and every statement in the Answer to Article III that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article III sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article III and is insufficient as a matter of law. Article III sets forth an impeachable offense as defined

in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article III and is insufficient as a matter of law.

ARTICLE IV

The House of Representatives denies each and every statement in the Answer to Article IV that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article IV sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article IV and is insufficient as a matter of law. Article IV sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirm-

ative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article IV and is insufficient as a matter of law.

ARTICLE V

The House of Representatives denies each and every statement in the Answer to Article V that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article V sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article V and is insufficient as a matter of law. Article V sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the

House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article V and is insufficient as a matter of law.

ARTICLE VI

The House of Representatives denies each and every statement in the Answer to Article VI that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article VI sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article VI and is insufficient as a matter of law. Article VI sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article VI and is insufficient as a matter of law.

ARTICLE VII

The House of Representatives denies each and every statement in the Answer to Article VII that denies the acts, knowledge, intent or wrongful conduct charged against Respondent and further states that Article VII is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article VII sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article VII and is insufficient as a matter of law. Article VII sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article VII and is insufficient as a matter of law.

ARTICLE VIII

The House of Representatives denies each and every statement in the Answer to Article VIII that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article VIII sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article VIII and is insufficient as a matter of law. Article VIII sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article VIII and is insufficient as a matter of law.

ARTICLE IX

The House of Representatives denies each and every statement in the Answer to Article IX that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article IX sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article IX and is insufficient as a matter of law. Article IX sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article IX and is insufficient as a matter of law.

ARTICLE X

The House of Representatives denies each and every statement in the Answer to Article X that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article X sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article X and is insufficient as a matter of law. Article X sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states

that the asserted defense is not relevant to the allegations of Article X and is insufficient as a matter of law.

ARTICLE XI

The House of Representatives denies each and every statement in the Answer to Article XI that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article XI sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article XI and is insufficient as a matter of law. Article XI sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article XI and is insufficient as a matter of law.

ARTICLE XII

The House of Representatives denies each and every statement in the Answer to Article XII that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article XII sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article XII and is insufficient as a matter of law. Article XII sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article XII and is insufficient as a matter of law.

ARTICLE XIII

The House of Representatives denies each and every statement in the Answer to Article XIII that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article XIII sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article XIII and is insufficient as a matter of law. Article XIII sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article XIII and is insufficient as a matter of law.

ARTICLE XIV

The House of Representatives denies each and every statement in the Answer to Article XIV that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article XIV sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article XIV and is insufficient as a matter of law. Article XIV sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article XIV and is insufficient as a matter of law.

ARTICLE XV

The House of Representatives denies each and every statement in the Answer to Article XV that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article XV sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article XV and is insufficient as a matter of law. Article XV sets forth an impeachable offense as defined in the Constitution of the United States and the jury verdict in *United States v. Hastings* does not preclude its adjudication in the Senate. To the extent said affirmative defense purports to suggest that the doctrine of laches or any statute of limitations is applicable, the House of Representatives denies the applicability of such doctrine or statute of limitations.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article XV and is insufficient as a matter of law.

ARTICLE XVI

The House of Representatives denies each and every statement in the Answer to Article XVI that denies the acts, knowledge, intent or wrongful conduct charged against Respondent.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article XVI sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article XVI and is insufficient as a matter of law.

ARTICLE XVII

The House of Representatives denies each and every statement in the Answer to Article XVII that denies the acts, knowledge, intent or wrongful conduct charged against Repondent and further states that Article XVII sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

FIRST AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article XVII sets forth an impeachable offense as defined in the Constitution of the United States, that

the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

SECOND AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that Article XVII sets forth an impeachable offense as defined in the Constitution of the United States, that the same is proper to be answered by Respondent and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

THIRD AFFIRMATIVE DEFENSE

The House of Representatives denies each and every allegation of this purported defense and further states that the asserted defense is not relevant to the allegations of Article XVII and is insufficient as a matter of law.

Respectfully submitted,

THE UNITED STATES HOUSE OF REPRESENTATIVES,
(By) ALAN I. BARON,
Special Counsel.

Managers of the House of Representatives: Peter W. Rodino, Jr., John Conyers, Jr., Don Edwards, John Bryant, Hamilton Fish, Jr., George W. Gekas.

Impeachment Trial Staff: Alan I. Baron, Special Counsel, Janice E. Cooper, Assistant Special Counsel, Patricia Wynn, Assistant Special Counsel, Lori E. Fields, Assistant Special Counsel.

House Judiciary Committee Staff Participating in Impeachment Trial Preparation: M. Elaine Mielke, General Counsel, Alan F. Coffey, Jr., Associate Counsel, Peter Levinson, Associate Counsel.

SEPTEMBER 23, 1988.

○